

MUNICIPAL COURT

PH: (706) 653-4378 • P. O. BOX 1340, COLUMBUS, GEORGIA 31902 • FAX (706) 653-4376

REQUIREMENTS FOR FILING A DISPOSSESSORY

A LANDLORD TENANT RELATIONSHIP MUST EXIST IN ORDER TO FILE A DISPOSSESSORY!!!

- 1) Tenant is holding the property over and beyond – When a 60-day prior notice has been given and the time has elapsed or the tenant has exceeded the 60 days, vacated/abandoned the property (have not turned in the keys) that means the tenant still has possession of the property.
- 2) Landlord Demands for Possession – A demand by the landlord for possession of the property is a condition precedent to his right to dispossess. The demand must be made prior to commencement of the dispossession proceeding; additionally, if the proceeding is based upon holding over, the demand must be made either upon or after the termination of the lease. If the proceeding is based upon nonpayment of the rent, the demand must occur between the due date of the rent and commencement of the proceeding. Demand for possession may be given orally, but generally easier to prove the demand if made in writing. The demand may be made by the owner, his agent or his attorney at law.
- 3) **Note:** A dispossession is filed for rent and applicable utilities only, not for damages or late fees!

2 TYPES OF DISPOSSESSORIES

- 1) Regular/Straight Dispossession (pay past due rent or move)
- 2) **Money Judgment** – Personal service must be perfected when requesting a judgment for the tenant's past due rent. If a judgment is obtained it can be used to garnish the wages or bank account of the tenant or levy on their personal property.

DISADVANTAGE OF FILING A MONEY JUDGMENT

Sometimes take longer to serve a money judgment dispossession for the reason that the tenant must be served personally or the dispossession summons must be left with someone of suitable age.

AFTER FILING THE DISPOSSESSORY

The tenant will have 7 days after the date of service to move, pay the past due rent or file an answer(dispute) to the dispossession. If the tenant files an answer(dispute) on a dispossession the case will be placed on the next docket call (court calendar) for the judge to decide the disposition of the case. Also, if there is no response from the tenant within 7 days after the service date, on the 8th day the landlord can pay the clerk's office for a writ (eviction) to do a set out. All writs (set out dates) are scheduled with the Marshal's Office.

When there is no answer (dispute) filed on a money judgment dispossession, a writ is issued, and executed then a written request by the plaintiff for a judgment (FIFA) for past due rent against the tenant may be granted.

NOTE: If you did not file a money judgment dispossession and the tenant left the premises without paying the past due rent, you may file a separate action in the form of a civil suit to recover any past due rent or property damages.